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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,070	01/14/2004	Shinji Tsuge	230980-0261	5353

23392 7590 02/21/2007  
FOLEY & LARDNER  
2029 CENTURY PARK EAST  
SUITE 3500  
LOS ANGELES, CA 90067

EXAMINER
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WARREN, DAVID S

ART UNIT	PAPER NUMBER
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2837

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/21/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/757,070

Applicant(s)

TSUGE ET AL.

Examiner

David S. Warren

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-17 and 19-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-17 and 19-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 – 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Machover et al. (5,650,583) in view of Shimada (5,739,456). Regarding claims 1, 5, 13, and 21, Machover discloses the use of performance pattern storage means and pattern sequence storage means (col. 2, lines 30 – 34 and col. 3, lines 1 – 5), a signal processing means for producing tones corresponding to the patterns of the sequence (col. 3, lines 13 – 16), an operator for use during performance of a pattern sequence to generate events representing addition (col. 11, paragraphs 5 – 7) and deletion (fig. 10B) of tones from the pattern sequence, creation means for creating a new performance pattern (i.e., Machover creates a “new” pattern; col. 12, first paragraph), and a modification means (col. 11, lines 54 – 56). Machover does not explicitly teach the use of a modification means to “substitute the identifier of the new performance pattern for the identifier of the performance pattern form which it was created in the pattern sequence.” However, Machover does disclose that “the current pattern having been changed or added with a new pattern can be stored into the assign memory 2, and then

the pattern stored in the assign memory 2 can be read out at any time by actuating any of the keys in the pattern assign area on the keyboard 1A” (col. 12, first paragraph). Shimada teaches “allocating and specifying a unique pattern identifier to the user rhythm data pattern in the rhythm edit mode..” The Examiner is interpreting this to mean that once a pattern is edited (i.e., adding and/or removing tones or “updating”) by the user is given a unique identifier. Furthermore, the Examiner maintains that by allocating and specifying the unique pattern identifier to the rhythm data, that Shimada is adding the identifier to the data and would therefore substitute new ID data for previous ID data. It would have been obvious to one of ordinary skill in the art to include an identifier substituting means in the teachings of Machover to obtain a pattern editing (i.e., adding or deleting events) system having a way to identify each modified pattern. The motivation for making this modification would be to provide Machover with a way for users to easily recall (from storage) each modified pattern to allow use and re-use of user-customizable. Regarding claims 2 and 3, the addition/deletion capabilities of Machover have been discussed supra. Regarding claim 4, rhythm accompaniment is essentially the timings of note-on events – so the addition/deletion would necessarily require the timing of events. Regarding claims 6, 8, 14, and 16, the limitations have been discussed supra. Regarding claims 11, 12, 19 and 20, Machover discloses the use of adding/deleting drum sounds (i.e., musical notes) – see col. 20, paragraphs 2 – 6. Regarding claims 7, 9, 15 and 17, Machover discloses the use of particular notes (col. 17, lines 42 – 47).

***Response to Arguments***

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Applicant's arguments, filed January 11, 2007, with respect to the rejection(s) of claim(s) 1, 5, 13, and 21 (and the claims that depend therefrom) under USC §103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Machover and Shimada. The Applicant argues that Machover does not show substituting ID data for newly edited pattern data. As stated supra, the Examiner has cited Shimada to show substituting new pattern ID data.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The newly cited documents of PTO form 892 all show pattern editing with identification means.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David S. Warren whose telephone number is 571-272-2076. The examiner can normally be reached on M-F, 9:30 A.M. to 6:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on 571-272-2837. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Dsw



DAVID S. WARREN